

Bid Transparency
Raised Bill 454

Goals and Benefits of Bill:

- 1) To standardize bid packages for public construction using the DAS prequalification classifications as the guide utilizing already existing language and systems.
- 2) To make the standardized bid packages apply to whatever bidding method is utilized for construction i.e. General Contractor, Construction Manager, or any other name they create in the future.
- 3) Clearly define which contractor(s) is responsible to provide documents, maintain documents, and be responsible for contractor misconduct i.e. wage violations, worker misclassification, independent contracting etc.
- 4) Break up packages into smaller chunks so smaller and minority contractors have the opportunity to compete on a level playing field, and to allow their bid to be public information in order to eliminate bid shopping by larger companies.
- 5) Provide contracting agency the ability to predetermine which packages will be used to meet SBE, MBE and Veteran owned percentages, and to know those goals will be met before bid date.
- 6) Eliminate certain licensing issues by showing which packages require which licenses as determined by the DAS prequalification classification language and by requiring the contractor to produce proof of possession of that license.
- 7) Give the DOL more leverage to enforce wage and hour and workers compensation violations by disclosing the lower tiered contractors.
- 8) Save the State money by reducing the number of mark-ups by prime contractors in the original bids, as well as on change orders throughout the project.

Possible Counter Arguments:

- 1) Will this bill create more work for the agencies who administer the projects?

No, the additional reporting of subcontractors is to be done by the general contractors when submitting their bids to the agency. Currently this system is in place already but only for four (4) sub trades. Construction managers already administer an average of 26 bid packages for state projects, but there is no consistency on how package elements (trades) are determined, this bill would only

average approximately 28 packages for comparable projects, which in many cases is less than what is done now.

- 2) Will this bill increase the cost of projects in the State?

No, this bill is designed to reduce the cost of projects by eliminating unnecessary contractor markups for portions of work currently included in their bid packages but do not perform and therefore must subcontract to another contractor. These contractors who are subcontracted work are capable of performing their scope of work without the guidance of the contractor who subcontracted them the job. This subcontract is marked up to include a profit margin for the original contractor and is passed along to the agency (and taxpayers) without any benefit to them. When a change order is necessary on a project the same markups are applied to the pass through contractors at great expense to the state again with little or no benefit.

- 3) Why isn't this being done now?

A system similar to this was in place from approximately 1960-1989 when it was thought that 90% of a project was done by only 4 subcontractors. This was not true then, and is especially not true today. Contractors have become much more specialized in their scopes of work and today very few contractors employ workers to perform multiple types of the work classifications utilized by the DAS prequalification. Other states (31) have adopted some form of this system and the Federal Government has a bill on the House floor to accomplish some of these goals for federal projects. Over the years it has become convenient and profitable for general contractors to not disclose which contractors they are using in order to force contractors to compete against each other behind the scenes to lower their prices to often unsustainable levels, which encourages contractors to skirt around the laws protecting workers and the public at large.

- 4) Don't larger subcontractors do the coordination for the smaller contractors?

Today's drafting programs are so much more advanced than they were when the current bidding laws were developed that perhaps that was true. Today, most projects are coordinated by one subcontractor (usually the sheet metal contractor) by integrating the drawings from the other trade contractors.

- 5) Won't this system create more potential for bid protests?

Bid protests are not a common occurrence today with construction managers offering up to 40 individual packages, and more to the point very few if any are successful when pursued. Even if some increase in bid protesting occurs, this could be due to finally know which contractors are to be utilized on projects and less reputable, potentially unqualified and less law abiding contractors will be exposed on bid day rather than months or years later when workers or the public have been harmed.

- 6) Will this bill lower the threshold for DAS Prequalification?

No, while we would support any lowering of the threshold for DAS prequalification from the present \$500,000 for a project or package, this bill does not deal with any part of the prequalification process. This bill only uses the existing prequalification classifications as a guide for developing and bidding construction packages.

- 7) Will municipalities be required to follow these standards?

As it is currently written, raised bill 454 does not require municipalities to bid work in this manner on public work paid for with municipal dollars. We believe that the cost savings will be great enough and the convenience of standardized bid packages would be a tremendous asset to the municipalities of the state that they will soon opt to follow this standard, or the legislature may see fit to require municipalities to utilize this in order for tax dollars to be spent more efficiently for public projects.